

## **REMARKS**

### **Status of the Application**

Claims 33-60, 85-91, 100-103 and 114-153 are pending in the application, with claims 34, 37, 38, 41, 85-91, 100-103, 114-140 and 151-153 deemed withdrawn as directed to non-elected inventions or non-elected species. Claims 33, 35, 36, 39, 40, 42-60 and 141-150 are under examination in the instant Office communication, with claims 33, 35, 36, 39, 40, 42-44, 46, 48, 50, 51, 53, 54, 56, 58 and 59 being rejected, and claims 45-47, 49, 52, 55, 57, 60 and 141-150 being objected to as depending from a rejected base claim.

With entry of the instant response, claims 85-91, 114-136 and 141-153 have been canceled without prejudice. In the instant Office communication, the Examiner indicates that claim 141 is allowable if redrafted in independent format. Accordingly, in order to place the pending claims in condition for allowance, Applicants have amended independent claim 33 herein to incorporate the limitations of claim 141. Entry of the amendment is therefore respectfully requested.

Applicants provide the additional remarks below to address issues raised in the instant Office communication.

### **Rejections under 35 U.S.C. § 112, First Paragraph, Enablement**

In the instant Office communication, the Examiner maintained the rejection of claims 33, 35, 36, 39, 40, 42-44, 46, 48, 50, 51, 53, 54, 56, 58 and 59 as allegedly not enabled. The Examiner repeated the assertion that the specification only enabled the claimed invention to the extent that the recited accessory molecule is a costimulatory molecule that is B7.1 or B7.2, an adhesion molecule that is ICAM-1, iCAM-2, ICAM-3, LFA-1 or LFA-3, or a survival molecule that is Fas ligand, TNF receptor or CD70.

As stated in Applicants' previous response, Applicants do not agree with the rationale underlying the present rejection on both legal and scientific grounds. Nonetheless, in order to advance prosecution of the subject application, Applicants have amended the pending claims to

limit the recited accessory molecule to those specific molecules that are acknowledged by the Examiner as enabled. Withdrawal of the instant rejection is accordingly requested.

Rejoinder of Restricted Claims

Applicants request rejoinder of composition claims 34, 37, 38 and 41, as well as process claims 100-103 and 137-140. Claims 34, 37, 38 and 41 were withdrawn from examination by the Examiner as directed to non-elected species of the recited claim element "support." However, independent claim 33 is generic with regard to the noted claim element. Therefore, as claim 33 is allowable upon entry of the present amendment, claims 34, 37, 38 and 41 should be rejoined and allowed in the subject application in accordance with 37 CFR 1.141.

As to process claims 100-103 and 137-140, these claims were previously withdrawn from consideration as directed to non-elected inventions. It is noted that these claims are related to the elected invention as product and process of use. In addition, these claims depend from and include all the limitations of the elected product claim (i.e., claim 33). Therefore, upon allowance of claim 33, these process claims should also be rejoined as provided under MPEP § 821.04.

CONCLUSION

In view of the foregoing, Applicant believes all claims now pending in this Application are in condition for allowance. The issuance of a formal Notice of Allowance at an early date is respectfully requested.

Serial No. 10/822,173  
TSRI 536.1C1

If a telephone conference would expedite prosecution of this application, please telephone the undersigned attorney at 858-784-2937. If there are any additional fees (or overpayments) associated with this Response, or any Response associated with this application, the Director is hereby authorized to charge (or credit) our Deposit Account No. 19-0962.

Respectfully submitted,

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Date



Hugh Wang, Ph.D., Reg. No 47,163

THE SCRIPPS RESEARCH INSTITUTE  
Office of Patent Counsel  
10550 North Torrey Pines Road  
Mail Drop TPC-8  
La Jolla, California 92037  
(858) 784-2937

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